

OFFICIAL

PATENT
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Georges BAHR	GROUP:	1806
SERIAL NO.:	08/809,650	EXAMINER:	Parkin, J. FAX RECEIVED
FILED:	June 13, 1997	ART UNIT:	1648 JAN 11 1999

GROUP 1600

FOR: COMPOSITIONS OF MURAMYL PEPTIDES INHIBITING THE
REPLICATION OF HIV

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner for Patents
Washington D.C. 20231

January 8, 1999

Sir:

In the Office Action dated December 8, 1998, the Examiner has dropped the previous restriction requirement in favor of an election of species requirement. The following comments are submitted in response to this requirement.

Although the Examiner has properly required the Applicant to elect a single disclosed species, some other incorrect comments related to unity of invention require clarification.

In paragraph 4 of the Office Action, the Examiner asserts that the species encompassed by Applicant's claims "do not relate to a single inventive concept under PCT Rule 13.1 thus, under PCT Rule 13.2, the species lack the same or corresponding special technical features". On the contrary, the common technical features are self-evident from even a casual reading of the generic claims, namely all of the species

posses the same basic core structure and are each useful for inhibiting replication of acquired immunodeficiency retroviruses. The fact that each of the species has a somewhat different chemical structure is no reason at all to assert that there is no unity of invention. Following this reasoning, all generic compound claims, indeed all compound claims covering more than a single compound, will violate unity of invention. Clearly this is not true nor proper under PCT unity of invention standards.

Thus, Applicant submits that the claims fully comply with the unity of invention standard, so any comments to the contrary by the Examiner should be corrected.

Nevertheless, as explained in Applicant's previous response, it is appropriate for the Examiner to make an election of species requirement pursuant to MPEP § 803. In response to this requirement, Applicant elects the species represented by the compound "murabutide", which is a compound wherein (with reference to the substituents within the claims) R is a methyl group, X is L-alanyl, R1 is an oxymethyl group and R2 is an NH₂ group. All the claims, except claims 18 and 27, read on the elected species.

Due to the above, favorable action on the merits is respectfully requested.

If necessary, the Commissioner is hereby authorized in this concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 

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RESTRICTION/ELECTION FACSIMILE TRANSMISSION

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JAN 8 1999

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GROUP 1600

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